

HB 533

HB 533 modifies the laws dealing with the leasing of State owned coal. The current statutes were primarily enacted in 1975 and haven't changed much since then. For the most part, sales have been for isolated tracts adjacent to existing mines. The recent Otter Creek Tracts sale identified the need for some changes to provide the Board of Land Commissioners additional flexibility in leasing and thereby enhance the value of state leases. The changes are:

1. Currently the Board is prohibited from leasing coal if strip mining would adversely affect underground mining of coal. The bill eliminates the prohibition and replaces it with an obligation on the Board to consider any potential impact on underground mining.
2. Current law requires that the Board go through a competitive bid process. The bill allows the Board to negotiate a sale without a competitive bid, but only if there is an appraisal and the lease rate is at fair market value. In the Otter Creek sale there were no bids at the first sale. It was cumbersome to go back out for another sale.
3. Current law requires that the first year's rental or bonus bid be paid all at once up front. This requirement can negatively impact the bidding by reducing the number of qualified bidders. The bill allows the Board to amortize the bonus bid over a period up to five years.
4. The bill also extends the primary term of 10 years by the period of time a lease or mining permit may be tied up in court. Currently the lease sale is in court and it is probable that a mining permit will also be challenged.
5. The bill addresses a particular problem with the Otter Creek tracts. The problem also relates to the 10 year primary term. It is not possible to conduct mining on all of the 14 separate leases within the 10 year period. The 1975 leasing law addressed that issue by extending the 10 year term as long as a lease was covered by a mining permit. However, the permitting system was changed in 1979 and the permits cover a smaller area. The bill clarifies that as long as a lease is "covered and described" in a permit the lease remains intact.